

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
ELKINS

PRINCE JONES,

Plaintiff,

v.

CIVIL ACTION NO. 2:17-CV-134
(BAILEY)

UNITED STATES, LT. J. RIFFLE,
OFFICER J. HUNT, WARDEN
DAVID WILSON, LT. HOWELL,
CLARK BRETT FRIEND, DANIEL
PRUSA, CHRISTOPHER MEYER,
JOHN PYLES, and OFFICER
JOHN DOE,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before this Court for consideration of the Report and Recommendation of United States Magistrate Judge James E. Seibert [Doc. 8]. Pursuant to this Court's Local Rules, this action was referred to Magistrate Judge Seibert for submission of a proposed report and a recommendation ("R & R"). Magistrate Judge Seibert filed his R&R on November 30, 2017, wherein he recommends this Court dismiss the action without prejudice and deny the pending Motion for Leave to Proceed in Forma Pauperis [Doc. 2].

Pursuant to 28 U.S.C. § 636 (b)(1)(c), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the

factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge Seibert's R&R were due within fourteen (14) days of receipt, pursuant to 28 U.S.C. § 636(b)(1) and Fed.R.Civ.P. 72(b). The docket reflects that service was accepted on December 6, 2017 [Doc. 11]. No objections have been filed. Accordingly, this Court will review the R&R for clear error.

Upon careful review of the above, it is the opinion of this Court that the **Report and Recommendation [Doc. 8]** should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. Accordingly, this Court **ORDERS** that the plaintiff's complaint **[Doc. 1]** be **DISMISSED WITHOUT PREJUDICE** pursuant to 28 U.S.C. § 1915(g). Additionally, the Motion to Proceed *In Forma Pauperis* **[Doc. 2]** is **DENIED AS MOOT**. This Court further **DIRECTS** the Clerk to enter judgment in favor of the respondents and to **STRIKE** this case from the active docket of this Court.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to any counsel of record and to mail a copy to the *pro se* petitioner.

DATED: January 3, 2018.



JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE